

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA

DOCKET NO. 95-1075-W/S - ORDER NO. 95-1731 ✓

DECEMBER 13, 1995

IN RE:	Application of Goat Island Water)	ORDER
	and Sewer Company, Inc. for a Certi-)	GRANTING A
	ificate of Public Convenience and)	CERTIFICATE OF
	Necessity, and for Approval of the)	PUBLIC
	Transfer of Water and Sewer Facilities)	CONVENIENCE
	and Territory held by Island Sub-)	AND NECESSITY
	division Water and Sewer Company, Inc.)	AND APPROVING
)	TRANSFER

This matter comes before the Public Service Commission of South Carolina (the Commission) on the July 7, 1995 Application of Goat Island Water and Sewer Company, Inc. (Goat Island or the Company) for issuance of a Certificate of Public Convenience and Necessity and approval of the transfer of the water and sewer facilities in territory presently held by Island Subdivision Water and Sewer Company, Inc. (Island). The Application was filed pursuant to S.C. Code Ann. §58-5-210 and 26 S.C. Regs. 103-504 and 103-704 (1976, as amended).

Subsequent to the initiation of this proceeding, the Executive Director of the Commission instructed the Company to cause to be published a prepared Notice of Filing in newspapers of general circulation in the area affected by the Application and to furnish the same information to each customer of Island. The Notice of Filing indicated the nature of the Application and

advised all interested parties desiring to participate in the proceeding of the manner and time in which to file the appropriate pleadings. No Petitions to Intervene were filed. Three Letters of Protest were received by the Commission Staff.

A public hearing was held in the hearing room of the Commission on December 7, 1995 at 10:30 a.m., with the Honorable Rudolph Mitchell, Chairman, presiding. Goat Island was represented by John M. S. Hoefer, Esquire. Goat Island presented the testimony of James C. Thigpen and Ray Kane. F. David Butler, General Counsel, represented the Commission Staff.

Ray Kane, Chairman of the Board of Directors of Island testified in support of the Application. Kane states that a transfer of the water and sewer systems owned by Island to Goat Island is in the public interest and should be approved. Island provides water and wastewater services to 75 residential and two commercial customers in an area of Clarendon County adjacent to Lake Marion known as Goat Island. The Commission has held that Island is a public utility but has previously allowed its services to be provided as an exempt homeowners association, with the exception of one short period. Kane noted that the financial reasons justifying a transfer of the systems to Goat Island relate to expenses which Island would have to incur for improvements to the water and wastewater treatment facilities which have been required in order to place the systems in compliance with customer demands and South Carolina Department of Health and Environmental Control (DHEC) regulation. According to Kane, water and sewer

permits issued by DHEC require that Island's facilities have sufficient capacity to handle present customers needs, and to do so in an environmentally sound manner. This has not been the case.

In 1994, Island was confronted with the possibility of substantial fines if the facilities were not upgraded. Island has had difficulty in making service available to all property owners. Further, Island is not a professional utility operation. Time, effort, and expense by individual shareholders of Island would be required to continue operating the facilities. Island did not and does not have the substantial capital necessary to meet the expenses of the capacity improvements and upgrades. Island was faced with a need to effect in excess of \$235,000 worth of upgrades to the system. The shareholders of Island were not willing to continue operating the water and sewer systems. Island entered into a Performance Agreement with Goat Island to make the upgrades and take over management of the systems, based on two conditions.

The first condition was that Island enter into a binding agreement whereby Goat Island would make the necessary upgrades and operate the system in exchange for Island deeding the systems to Goat Island.

The second condition was that approval be obtained from the Commission to transfer the systems from Island to Goat Island at the present rates being charged by the exempt homeowners association, that is \$60 per month for water and sewer for

residential customers, and \$135 per month for water and sewer for commercial customers. If the conditions as stated above are not met, Island would then become obligated to reimburse Goat Island for the cost of upgrades and improvements it has made to the system, an expense that Kane contends Island cannot afford.

According to Kane, if Island had not been able to enter the Performance Agreement with Goat Island to perform the upgrades and operate the facilities owned by Island, the Island systems would have been closed by DHEC. Also, this Commission has scheduled the homeowners exemption possessed by Island to expire on December 27, 1995. Island does not believe, according to Mr. Kane, that it has either the technical or managerial experience, or the financial wherewithal needed to continue operating the Company. Therefore, Island states its desire through Kane to transfer the facilities in accordance with the Performance Agreement.

James C. Thigpen, Vice President of Goat Island, also testified in support of the Application. Thigpen testified that the Company, a South Carolina Corporation, was formed in 1994 by Roger Edwards and himself. The two formed the Company because they desired to have available sufficient water and sewer facilities to serve undeveloped real property owned in the area of Clarendon County adjoining Lake Marion known as Goat Island. Island was not able to provide service for the undeveloped property due to lack of capacity. As the Commission is aware, Thigpen noted that Island experienced financial and regulatory difficulties in the operation of the facilities. Island was under

order by DHEC to improve and upgrade the facilities. Further, the homeowners association exemption possessed by Island was lost for a brief period. Thigpen then explained the Performance Agreement between Island and Goat Island. Thigpen noted that his Company has expended \$235,000 to date to improve the facilities to meet DHEC standards, and that the capacity of the systems had thereby been increased to accommodate all property owners with the improvements made by Thigpen and his Company. The sewer treatment facility has a current capacity of 52,000 gallons a day, which is an increase in capacity of 70%, and, according to Thigpen, is sufficient to handle all the foreseeable demands in the Goat Island service area. Also, according to Thigpen, when the final permits are received from DHEC, there will be 43 additional sewer taps available for future use. Further, Goat Island has completed well drilling for potable water, and is awaiting laboratory test results before connecting customers to a new water source.

Thigpen noted that Goat Island is currently managing the facilities of Island under a management agreement with Island, and has been doing so since September of 1994. The sewer facilities are operated under the supervision of a Class B DHEC Certified Wastewater Treatment Plant Operator. Billing and collection is currently handled by the present owner, but this responsibility would be transferred to Goat Island if the transfer is approved. Thigpen noted that if the transfer is approved, Goat Island would have four employees, including management, operating the systems.

Thigpen also testified that the second basic element of the

contract between Island and Goat Island is that the facilities be transferred to Goat Island upon approval by the Commission, and that the rates now being charged to the shareholders of Island who would become Goat Island's customers continue to be charged. Again, the current charges are \$60 per month and \$135 per month combined water and sewer charges for residential and commercial service, respectively.

Thigpen stated several reasons why the transfer of the water and sewer facilities from Island to Goat Island should be approved and would benefit the public. First, with respect to wastewater, the current owner has been under considerable pressure from DHEC to expand sewer treatment capacity and improve the water system. Island has neither the funds nor the expertise to accomplish the upgrades and improvements. Goat Island agreed to advance the necessary funds to accomplish the task in exchange for a transfer of the facilities at rates which would permit the facilities to be operated and maintained in an environmentally responsible manner. Island simply does not have the funds to reimburse Goat Island should the rates, as are presently charged, not be approved.

Further, the facility is now configured in the manner that allows treatment capacity to be made available to all property owners. Goat Island states that the ratepayers will be protected by the regulatory oversight powers of the Commission, and that it seeks, by this Application, a Certificate of Public Convenience and Necessity to serve the customers as a public utility offering water and sewer services, subject to this Commission's

jurisdiction. Goat Island notes that it fully intends to operate under and adhere to the rules and regulations of the Commission.

Thigpen notes that Goat Island is seeking no increase in the present charges to the customers which have been approved by the majority of Island's shareholders and the entirety of Island's Board of Directors. New customers purchasing property in newly developed areas will be charged the same rates as old customers without any preference. Thigpen notes that at the current rates his Company is financially capable of operating the facilities sought to be transferred. Thigpen states that Goat Island has a continuing interest in the vitality of the utility simply because it needs the services for land that Thigpen and others desire to develop. Thigpen states that in complying with all rules and regulations of the Commission, it will post the security required by law for regulated public utilities.

The Commission has examined this matter and believes that the Certificate of Public Convenience and Necessity should be granted, and the transfer of the water and sewer facilities of Island to Goat Island should also be granted, both based on the testimony of Messrs, Kane and Thigpen. We believe that the record reveals that such a transfer is most definitely in the public interest. Without the investments put forth by Mr. Thigpen and his Company, DHEC would have simply closed Island and its facilities. Thanks to Mr. Thigpen, the facilities have remained viable and indeed have effected an increase in capacity so that all property owners in the area may be served. We believe that the transfer is

consistent with solving the numerous problems seen by this Commission with the system in past orders.

We note with interest the testimony of several Protestants in this matter. None of the protests seem to be related to the rates to be charged. Apparently, there is a shareholder dispute internally within Island. The Commission has no jurisdiction to rule on the shareholder dispute, but only has the power and authority to rule with regard to the transfer of the utilities under its jurisdiction. The Commission compliments Mr. Thigpen and Mr. Edwards for upgrading facilities that were obviously in great difficulty before. The Commission therefore grants the Certificate of Public Convenience and Necessity in this case, and approves the transfer of the water and sewer facilities of Island to Goat Island. The Commission also notes that Goat Island seeks no increase in the present rates approved by its customers. It seeks only to charge the same rates. The Commission therefore approves these rates.

The Commission notes that since no exhaustive financial data was available for Goat Island that it has no means by which to find the operating margin required by §58-5-240(H). The approved schedule as stated above is set forth in Appendix A, which is attached hereto and incorporated herein by reference.

IT IS THEREFORE ORDERED THAT:

1. A Certificate of Public Convenience and Necessity is granted to Goat Island Water and Sewer Company, Inc. to operate the water and sewer facilities formerly owned and operated by

Island Subdivision Water and Sewer Company, Inc.


2. The transfer of the water and sewer facilities from Island Subdivision Water and Sewer Company, Inc. to Goat Island Water and Sewer Company, Inc. is hereby granted.

3. The present rates as charged to the customers are hereby granted and continued. The schedule of rates and charges for Goat Island Water and Sewer Company, Inc. as set forth in Appendix A is approved and may be charged for service rendered as is being continued.

4. Goat Island Water & Sewer Company, Inc. shall maintain its books and records for its water operations in accordance with the NARUC system of accounts.

5. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)

APPENDIX A

**GOAT ISLAND WATER AND SEWER CO. INC.
P.O. BOX 700
SUMMERTON, SC 29148**

**DOCKET NO. 95-1075-W/S
ORDER NO. 95-1731
EFFECTIVE 12/13/95**

MONTHLY WATER & SEWER RATES

Residential	\$ 60.00
Commercial	\$135.00